

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Promote Policy
and Program Coordination and Integration in
Electric Utility Resource Planning.

Rulemaking 04-04-003
(Filed April 1, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING
ON NOTICES OF INTENT TO CLAIM COMPENSATION
AND REQUESTS TO INTERVENE**

1. Summary

The Green Power Institute (GPI), The Natural Resources Defense Council (NRDC), The Union of Concerned Scientists (UCS), and The Utility Reform Network (TURN) each timely filed a Notice of Intent (NOI) to Claim Intervenor Compensation in this proceeding (NOI). Pursuant to § 1804 (b)(1),¹ this ruling addresses whether these customers will be eligible for awards of compensation. It also addresses requests to intervene in the proceeding.

2. Customer Category

Section 1802(b) defines "customer" in three ways: a participant representing utility consumers, a representative authorized by a customer, and a representative of a group or organization that is authorized by its articles of incorporation or bylaws to represent the interests of residential customers or certain small commercial customers. Each of the four customers whose NOI is

¹ Section references are to the Public Utilities Code.

addressed herein is a “Category 3” customer, i.e., one that is authorized pursuant to its bylaws to represent residential customers.

3. Adequacy of Representation

While GPI, NRDC, and UCS represent environmental interests, each does so with a somewhat different focus. GPI indicates an emphasis on renewable resources, NRDC emphasizes preservation of environmental quality while minimizing societal costs of electric service, and UCS emphasizes its use of rigorous scientific analysis in addressing environmental issues including the impact of energy production on human health and the environment. TURN is likely to be one of the few intervenors that will represent solely residential and small commercial customers.

4. Significant Financial Hardship

For Category 3 customers, “significant financial hardship” means that the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding. (§ 1802(g).)

GPI states that “[b]ecause the nature of our participation focuses on the technical and environmental impacts of the matters under consideration in this proceeding, the direct economic impacts on the organization and its members are anticipated to be negligible.” (GPI NOI, pp. 4-5.) GPI has demonstrated significant financial hardship within the meaning of § 1802(g).

NRDC states that “[w]hile some of [its] California-resident members may eventually experience lower and/or more stable electricity bills because of NRDC’s contribution to comprehensive, integrated planning for cost-effective long-term investments in this proceeding, the economic interest represented by such savings is minute in comparison to the expenses incurred by the

organization to present its views in this proceeding.” (NRDC NOI, p. 8.) NRDC has demonstrated significant financial hardship within the meaning of § 1802(g).

UCS cites to D.95-02-093 as support for the proposition that “[t]he Commission has held that organizations with individual members who have annual utility bills of less than \$50,000 possess economic interests that are small in comparison to the costs required to participate in the proceeding.” (UCS NOI, p. 4.) UCS goes on to state that “it can be stated with confidence that the average annual residential utility bill [of its membership] does not exceed \$50,000. (*Id.*) However, that decision dealt with a request for compensation by an organization representing agricultural customers, whereas UCS represents residential customers. D.95-02-093 is inapplicable to UCS, a Category 3 customer. Nevertheless, UCS is clearly situated similarly to GPI and NRDC as an advocate for environmental interests, and its assertion at p. 4 of its NOI that “the economic interests of its membership are small compared to the cost of participation in this proceeding” will be accepted. UCS has demonstrated significant financial hardship within the meaning of § 1802(g).

TURN states that “...the economic interests of those individual customers [i.e., individual residential ratepayers] continue to be small in comparison to the costs of effective participation in CPUC proceedings.” (TURN NOI, p. 6.) TURN has demonstrated significant financial hardship within the meaning of § 1802(g).

5. Nature and Extent of Planned Participation

The NOI must include a statement of the nature and extent of the customer’s planned participation as far as it is possible to set out when the NOI is filed. (§ 1804(a)(2)(A)(i).) Each of the customers has complied with this requirement by indicating that it plans active participation. I note that each of them states its intent to coordinate its participation with other groups to the

extent possible to avoid duplication. In view of the legislative intent expressed in Pub. Util. Code § 1801.3(f) that the Commission administer its intervenor compensation program in a manner that avoids unproductive or unnecessary participation, as well as the potential for overlapping participation, especially among environmental groups, this is particularly appropriate.

6. Itemized Estimate of Costs of Participation

The NOI must include an itemized estimate of the compensation that the customer expects to request, given the likely duration of the proceeding as it appears at the time the NOI is filed. (§ 1804(a)(2)(A)(ii).) Each of the customers has complied with this requirement. The total estimated amounts are listed below:

Intervenor	Estimated Compensation Request
GPI	\$ 8,000
NRDC	\$ 45,000
UCS	\$106,401
TURN	\$235,000

7. Requests to Intervene

UCS; Constellation Power Source; FPL Energy, LLC; and, jointly, California Department of Water Resources State Water Project and The State Water Contractors have requested leave to intervene in this proceeding. For good cause shown, these requests will be granted.

IT IS RULED that:

1. The Green Power Institute, The Natural Resources Defense Council, The Union of Concerned Scientists (UCS) and The Utility Reform Network are each eligible for an award of intervenor compensation. The exact amounts of such awards, if any, shall be based on the reasonableness of their respective requests

for awards. This ruling “in no way ensures compensation.” (§ 1804(b)(2).) The Commission may audit the records and books of the customer to the extent necessary to verify the basis of the award. (§ 1804(d).)

2. The requests of UCS, Constellation Power Source, FPL Energy LLC, and California Department of Water Resources State Water Project/State Water Contractors to intervene in this proceeding are granted.

Dated July 27, 2004, at San Francisco, California.

/s/ MARK S. WETZELL

Mark S. Wetzell
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling on Notices of Intent to Claim Compensation and Requests to Intervene on all parties of record in this proceeding or their attorneys of record.

Dated July 27, 2004, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.